

## DELAWARE

*Specific requirement to report sexual assault? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? No.*

*Additional statutes that may impact competent adult victims of sexual assault? There is a requirement to report poisoning and knife and gunshot wounds.*

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### STATUTES ADDRESSING PAYMENT FOR EXAMINATIONS

#### **11 Del. C. § 9019 Payment for forensic medical examinations for victims of sexual offense**

(a) The cost of a forensic medical examination done for the purpose of gathering evidence that can be used in the prosecution of a sexual offense may be paid from the Victim Compensation Fund.

(b) "Forensic medical examination" shall be defined as medical diagnostic procedures examining for physical trauma, and determining penetration, force or lack of consent. The cost of the examination shall include collecting all evidence as called for in the sexual offense evidence collection kits and may include any of the following, if done as part of the forensic medical examination:

(1) Physician's fees for the collection of the patient history, physical, collection of specimens and treatment for the prevention of venereal disease, including 1 return follow-up visit;

(2) Emergency department expenses, including emergency room fees and cost of pelvic tray; and

(3) Laboratory expenses for wet mount for sperm, swabs for acid phosphates and ABH antigen; blood typing; serology for syphilis and Hepatitis B; cultures for gonorrhea, chlamydia, trichomonas and other sexually transmitted diseases; pregnancy testing; urinalysis; and any other laboratory test needed to collect evidence that could be used in the prosecution of the offense.

(c) Hospitals and health care professions shall provide forensic medical examinations free of charge to the victims of sexual offenses. Any hospital or health care professional performing a forensic medical examination shall seek reimbursement for the examination from the patient's insurance carrier, including Medicaid and Medicare, if available. If insurance is unavailable, or does not cover the full costs of the forensic medical examination, the service provider may seek reimbursement from the Compensation Fund. The Board shall authorize the repayment for reasonable expenses incurred during the forensic medical examination. Such reimbursement shall not exceed a maximum amount to be determined by the Board. If the hospital or health care professional has recovered from insurance, the Board shall only provide compensation sufficient to total the maximum amount

provided for in the Board's rules and regulations.

(d) The victim of the sexual offense shall not pay any out-of-pocket costs associated with the forensic medical examination and shall not be required to file an application with the Board. Notwithstanding other language in this chapter, all forensic medical examinations of victims of a sexual offense not covered by insurance shall be paid for through the Victim Compensation Fund and such payment shall be considered full compensation to the hospital or health care professional providing such services.

(e) In addition to, and at the same time as, any other fine or penalty assessed on any criminal defendant, all defendants convicted of a sexual offense as defined in § 761 of this title shall be assessed an additional fine that shall be used to reimburse the Victim Compensation Fund for forensic medical examination payments. All defendants convicted of sexual offenses shall pay \$ 50 for each misdemeanor level count for which they are convicted and \$ 100 for each felony level count for which they are convicted. All fines paid in accordance with this section shall be deposited into the Victim Compensation Fund.

(f) Nothing in this section shall preclude victims from applying to the Board for other costs incurred.

HISTORY: 70 Del. Laws, c. 40, § 1.

## REPORTING STATUTES WHICH MAY IMPACT RAPE VICTIMS

### **24 Del. C. § 1762. Reports of treatment of certain wounds, injuries, poisonings, or other conditions; failure to report; penalty**

(a) Every person certified to practice medicine who attends to or treats a stab wound; poisoning by other than accidental means; or a bullet wound, gunshot wound, powder burn, or other injury or condition arising from or caused by the discharge of a gun, pistol, or other firearm, or when such injury or condition is treated in a hospital, sanitarium, or other institution, the person, manager, superintendent, or other individual in charge shall report the injury or condition as soon as possible to the appropriate police authority where the attending or treating person was located at the time of treatment or where the hospital, sanitarium, or institution is located. This section does not apply to wounds, burns, poisonings, or injuries or conditions received by a member of the armed forces of the United States or the State while engaged in the actual performance of duty. A person who fails to make a report required by this section shall be fined not less than \$ 100 nor more than \$ 2,500.

(b) A person certified to practice medicine or other individual who makes a report pursuant to this section is immune from liability for the report, provided that the person or other individual acted in

RAPE REPORTING REQUIREMENTS FOR COMPETENT ADULT VICTIMS

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good faith and without gross or wanton negligence.

**HISTORY:** 24 Del. C. 1953, § 1762; 50 Del. Laws, c. 369, § 1; 65 Del. Laws, c. 123, § 1; 75 Del. Laws, c. 141, § 1.